

**ASSEMBLY BILL**

**No. 411**

**Introduced by Assembly Member Wayne**

February 20, 1997

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An act to amend Sections 115880, 115885, and 115915 of the Health and Safety Code, relating to public beaches.

LEGISLATIVE COUNSEL'S DIGEST

AB 411, as introduced, Wayne. Beach sanitation: posting.

Existing law requires the State Department of Health Services to adopt regulations establishing minimum standards for the sanitation of public beaches. Violation of these regulations adopted by the department is a crime.

This bill would require these regulations to require the testing of all beaches for total coliform, fecal coliform, enterococci, and streptococci bacteria, establish protective minimum standards for the location of monitoring sites and monitoring frequency, to require posting in clearly visible points along affected beaches whenever state standards are violated, and to require that beaches be tested for total coliform, fecal coliform, enterococci, and streptococci bacteria and chemical pollutants including, but not limited to, PCBs, PAHs, and mercury on a weekly basis from April 1 to October 31, inclusive, of each year if certain conditions are met. By changing the definition of a crime, this bill would impose a state-mandated local program.

This bill would require local health officers to be responsible for testing beaches within this jurisdiction except state beaches which the bill would require the department to test.

By increasing the duties of local health officers, this bill would impose a state-mandated local program.

Existing law requires the local health officer to post a beach with conspicuous warning signs whenever the beach fails to meet certain bacteriological standards, and it is determined that the cause of the elevated levels constitutes a public health hazard.

This bill would, in addition, require the local health officer to post a beach with conspicuous warning signs whenever the beach fails to meet the standards developed by the department established pursuant to this bill.

Existing law requires each local health officer to notify the Director of Parks and Recreation when a beach is in violation of the sanitation standards.

This bill would, instead, require the local health officer to notify the Director of Parks and Recreation within 24 hours of any beach posting, closure, or restriction, and would require the Director of Parks and Recreation to establish a telephone hotline and update it daily to inform the public of beach postings, closures, and restrictions. By increasing the duties of the local health officer, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.



*The people of the State of California do enact as follows:*

SECTION 1. Section 115880 of the Health and Safety Code is amended to read:

115880. (a) The department shall by regulation establish minimum standards for the sanitation of public beaches, including, but not limited to, the removal of refuse, as it determines are reasonably necessary for the protection of the public health and safety.

(b) *The regulations shall, at a minimum, do all of the following:*

(1) *Require the testing of all beaches for total coliform, fecal coliform, enterococci, and streptococci bacteria.*

(2) *Establish protective minimum standards for the location of monitoring sites and monitoring frequency.*

(3) *Require posting in clearly visible points along affected beaches whenever state standards are violated.*

(4) *Require that beaches be tested for total coliform, fecal coliform, enterococci, and streptococci bacteria and chemical pollutants including, but not limited to, polychlorinated biphenyls (PCBs), polyaromatic hydrocarbons (PAHs), and mercury on a weekly basis from April 1 to October 31, inclusive, of each year if all of the following apply:*

(A) *The beach is visited by more than 50,000 people annually.*

(B) *The beach is located on an area adjacent to a storm drain that flows in the summer.*

(c) *The local health officer shall be responsible for testing all beaches within his or her jurisdiction, except state beaches which shall be tested by the department.*

(d) Any city or county may adopt standards for the sanitation of public beaches within its jurisdiction that are stricter than the standards adopted by the state department pursuant to this section.

SEC. 2. Section 115885 of the Health and Safety Code is amended to read:

115885. The health officer having jurisdiction over the area in which a public beach is created shall:

(a) Inspect the public beach to determine whether the standards established pursuant to Section 115880 are being complied with. If the health officer finds any violation of the standards, he or she shall restrict the use of, or close, the public beach or portion thereof in which the violation occurs until such time as the standard violated is complied with.

(b) Investigate any complaint of a person of a violation of any standard established by the department pursuant to Section 115880. If the health officer finds any violation of the standards prescribed by the department, he or she shall restrict the use of, or close, the public beach or portion thereof until the time as the standard violated is complied with. If the person who made the complaint is not satisfied with the action taken by the health officer, he or she may report the violation to the department. The department shall investigate the reported violation, and, if it finds that the violation exists, it shall restrict the use of or close the public beach or portion thereof until the standard violated is complied with.

~~(c) Report any violation of the standards established pursuant to Section 115880 to the Director of Parks and Recreation.~~

*(c) (1) Whenever a beach is posted, closed, or otherwise restricted, the health officer shall inform the Director of Parks and Recreation within 24 hours of the posting, closure, or restriction.*

*(2) The Director of Parks and Recreation shall establish a telephone hotline to inform the public of all beaches currently closed, posted, or otherwise restricted. The hotline shall be updated daily.*

(d) Report any violation of the standards established pursuant to Section 115880 to the district attorney, or if the violation occurred in a city and, pursuant to Section 41803.5 of the Government Code, the city attorney is authorized to prosecute misdemeanors, to the city attorney.

SEC. 3. Section 115915 of the Health and Safety Code is amended to read:

1 115915. Whenever any beach fails to meet the  
2 bacteriological standards of Section 7958 of Title 17 of the  
3 California Code of Regulations, *or any of the standards*  
4 *established pursuant to subdivision (b) of Section 115880,*  
5 the health officer, ~~after determining that the cause of the~~  
6 ~~elevated bacteriological levels constitutes a public health~~  
7 ~~hazard,~~ shall, at a minimum, post the beach with  
8 conspicuous warning signs to inform the public of the  
9 nature of the problem and the possibility of risk to public  
10 health.

11 SEC. 4. No reimbursement is required by this act  
12 pursuant to Section 6 of Article XIII B of the California  
13 Constitution for certain costs that may be incurred by a  
14 local agency or school district because in that regard this  
15 act creates a new crime or infraction, eliminates a crime  
16 or infraction, or changes the penalty for a crime or  
17 infraction, within the meaning of Section 17556 of the  
18 Government Code, or changes the definition of a crime  
19 within the meaning of Section 6 of Article XIII B of the  
20 California Constitution.

21 However, notwithstanding Section 17610 of the  
22 Government Code, if the Commission on State Mandates  
23 determines that this act contains other costs mandated by  
24 the state, reimbursement to local agencies and school  
25 districts for those costs shall be made pursuant to Part 7  
26 (commencing with Section 17500) of Division 4 of Title  
27 2 of the Government Code. If the statewide cost of the  
28 claim for reimbursement does not exceed one million  
29 dollars (\$1,000,000), reimbursement shall be made from  
30 the State Mandates Claims Fund.

31 Notwithstanding Section 17580 of the Government  
32 Code, unless otherwise specified, the provisions of this act  
33 shall become operative on the same date that the act  
34 takes effect pursuant to the California Constitution.